

REMARKS

The Examiner has rejected the claims under §102 as anticipated by, or in the alternative under §103, as obvious over '474 B2, '106 B2, or WO 03/000615A. The claims of the present invention have been amended to a rapid setting, low strength backfill composition of Class C flyash with trace amounts of lime and triethanolamine, without any hydraulic cement or Portland-type cement.

Class C flyash is a man-made, pozzolanic cement replacement (as compared to a "natural pozzolan") and is clearly a different material than a hydraulic cement like Portland.

The cited references teach the inclusion of a hydraulic cement which will result in a high strength composition after setting – even if the set time is "rapid."

The present invention yields a controlled low-strength mixture (CLSM) or flowable backfill which set between 17-23 minutes as determined when a 0.25" diameter penetrometer needle provided a reading of 200 psi on insertion to a depth of 1.0". This is a rapid set with a low strength. The mixtures of the cited art yield strengths in excess of 1500 psi and are used for such hardened products as cement boards (the Perez-Pena reference) and concrete blocks (the Moreau, et al, references.) The backfills of the present invention achieve controlled, low strengths in the range of 200 psi.

Applicant respectfully asks the Examiner to consider the new claims and issue a Notice of Allowance.

Respectfully submitted,

JACKSON WALKER L.L.P.
112 E. Pecan Street, Suite 2400
San Antonio, Texas 78205
(210) 978-7700
(210) 978-7790 Fax

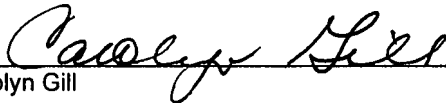


Thomas E. Sisson, Reg. 29,348

CERTIFICATE OF MAILING

I hereby certify that this paper (along with any paper referred to as being attached or enclosed) is being deposited on the date shown below with the United States Postal Service, with sufficient postage as First Class Mail (37 CFR 1.8(a)), in an envelope addressed to Mail Stop: RESPONSE/FEE, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

Date: 7-2-07


Carolyn Gill